

Consultation Paper

International Financial Activity Act

This paper is being distributed to encourage comments and suggestions from interested parties that may be affected by the proposed additions to the regulation to the *International Financial Activity Act* (Act). This information is for consultation purposes only and should not be relied upon to interpret the Act. The final regulation may vary from the proposals in this paper.

Any questions or comments, suggested additions or deletions, to these proposed activities should be directed to the Income Taxation Branch by **August 27, 2004**. See the contact information below.

PRESCRIBED INTERNATIONAL FINANCIAL ACTIVITIES

The *International Financial Activity Act* will come into effect on September 1, 2004. Further details on the International Financial Activity (IFA) program, including activities that qualify for the program, can be found in Bulletin IFA 001.

Some of the international financial activities listed in the Act will be clarified by regulation. The regulation may include activities listed below.

Prescribed business

International financial activities in section 2(2)(a) to (d) of the Act include:

- accepting deposits in any currency in respect of a prescribed business from a person carrying on the business;
- making deposits in any currency in respect of a prescribed business with a person carrying on the business;
- making loans in any currency in respect of a prescribed business to a person carrying on the business; and
- borrowing in any currency in respect of a prescribed business from a person carrying on the business.

The following are proposed to be prescribed businesses for the above activities:

- an international financial business of any other registered corporation;
- an international banking centre business designated under section 33.1(3) of the *Income Tax Act* (Canada); and
- an international financial centre as defined in *An Act Respecting International Financial Centres* (Quebec).

Prescribed purpose

Section 2(2)(g)(ii) of the Act defines, for a corporation that is not a securities corporation (as defined below) acting as principal in making or offering to make with a non-resident person an agreement for acquiring or disposing of securities for a prescribed purpose to be an international financial activity.

Eligible purposes are proposed to be hedging or managing a financial risk of a non-resident person. **Input on these terms would be welcomed.**

Prescribed risks

Section 2(2)(h) of the Act defines insuring or reinsuring prescribed risks

- (i) of, or relating to, non-resident persons; and
- (ii) relating to property situated or events occurring outside Canada;

to be an international financial activity.

Risks are proposed to be any risks that fall within any class of insurance defined under the *Insurance Act*, except life, sickness or accident insurance.

Prescribed financial advice

Section 2(2)(i) of the Act defines providing financial advice, other than prescribed financial advice, to non-resident persons to be an international financial activity.

Financial advice is proposed to exclude legal, accounting or tax advice provided by a person in the business of providing that advice.

Prescribed financial research

Section 2(2)(n) of the Act defines providing stock market or other financial research, other than prescribed financial research, for the exclusive use of non-resident persons to be an international financial activity.

Financial research is proposed to exclude legal, accounting or tax research.

Prescribed film or television productions

Section 2(2)(q) of the Act defines selling, assigning or licensing rights to a non-resident person

- (i) to distribute outside of Canada a film or television production, other than a prescribed production; or
- (ii) to exploit outside of Canada any thing related to the production to be an international financial activity.

A prescribed production is proposed to be a production that is pornography or a production for which public financial support would, in the opinion of the Commissioner of Income Tax, be contrary to public policy.

Prescribed administrative support services

Section 2(2)(r) of the Act defines providing, to a non-resident person, administrative support services, other than prescribed administrative support services, that are directly related to a financial activity of the non-resident person to be an international financial activity.

Prescribed administrative support services are proposed to include call centres, marketing and advertising with customers of the registered corporation or a related party of the registered corporation.

Prescribed financial activity

Section 2(2)(t) of the Act allows other prescribed financial activity that is conducted exclusively for non-resident persons and from which the corporation earns fee or commission income to be an international financial activity.

Proposed prescribed financial activities include the following:

- collecting accounts receivable from non-resident persons;
- providing services to a non-resident person in respect of the Canadian Immigrant Investor Program;
- for savings institutions (as defined below) only:
 - acting as trustee of a trust that, at all relevant times, is non-resident;
 - as an executor or administrator of the estate of a non-resident person, all the beneficiaries of which are at all relevant times non-residents;
 - as guardian of the estate of a minor who is non-resident; or
 - as committee of the estate of a mentally incompetent person who is non-resident.

Definitions:

A securities corporation is a savings institution or a corporation registered under the Securities Act as a dealer or an underwriter.

A savings institution is a bank, credit union, trust company, extra-provincial trust corporation authorized to carry on a deposit business under the *Financial Institutions Act*, or a corporation that is a subsidiary of a bank and is a loan company to which the *Trust and Loan Companies Act* (Canada) applies.

CONTACTS

For questions, comments or suggestions concerning these activities, please contact:

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